

31. That defendant has violated the terms of the license agreement by republishing the textbook in 2005, a year after the licensing agreement expired and in violation of the terms of the agreement which grant no reprint rights.

32. That the publication of the image in these forms constitutes federal statutory copyright infringement in violation of the exclusive rights granted SUTHERLAND as copyright holder under 17 U.S.C. § 106.

33. That the use(s) of the subject image is without the plaintiff's authorization, license or consent.

34. That the full nature and extent of the defendant MCGRAW HILL's usage of the subject image is unknown, such information being in the sole custody, possession and control of the defendant MCGRAW HILL.

35. Defendant's publication of the image was willful, intentional and in bad faith.

36. That as a result of defendant's acts, the plaintiff has been damaged in an amount as yet undetermined.

37. The plaintiff is further entitled to statutory damages, attorneys' fees and costs under Section 504 and 505 of the Copyright Act, 17 U.S.C. Section 101 et., seq., given the willful, intentional, malicious and bad faith nature of defendants' copyright infringement.

#### **SECOND CLAIM FOR RELIEF**

##### **Copyright Infringement** **Under Section 501 of the Copyright Law** **Against McGraw Hill**

38. Plaintiff repeats, reasserts and realleges each of the allegations contained in paragraphs 1 through 37 as if fully set forth herein.

39. The plaintiff is the registered copyright holder in the subject image as set forth above.

40. This claim arises under Section 501 of the Copyright Act, 17 U.S.C. Section 101 et., seq.

41. That it is unknown when defendants first published the subject image in electronic form but that such use was still continuing through at least December of 2006.

42. That said date was over two years after the defendant's license to use the image expired.

43. That plaintiff has violated the terms of the license agreement by republishing the textbook in 2005, a year after the licensing agreement expired and in violation of the terms of the agreement which grant no reprint rights.

44. That the publication of the image in these forms constitutes federal statutory copyright infringement in violation of the exclusive rights granted SUTHERLAND as copyright holder under 17 U.S.C. § 106.

45. That the use(s) of the subject image is without the plaintiff's authorization, license or consent.

46. That the full nature and extent of the defendant MCGRaw HILL's usage of the subject image is unknown, such information being in the sole custody, possession and control of the defendant MCGRaw HILL.

47. Defendant's publication of the image was negligent.

48. That as a result of defendant's acts, the plaintiff has been damaged in an amount as yet undetermined.

49. The plaintiff is further entitled to statutory damages, attorneys' fees and costs under Section 504 and 505 of the Copyright Act, 17 U.S.C. Section 101 et., seq., given the willful, intentional, malicious and bad faith nature of defendants' copyright infringement.

**THIRD CLAIM FOR RELIEF**

**Copyright Infringement**  
**Under Section 502 of the Copyright Act**  
**Against McGraw Hill**

50. Plaintiff repeats, reasserts and realleges each of the allegations contained in paragraphs 1 through 49 as if fully set forth herein.

51. That plaintiff is entitled to an injunction permanently prohibiting defendant from publishing, distributing, transmitting, reproducing or otherwise possessing the subject image in any form.

**JURY DEMAND**

52. Plaintiffs request a trial by jury of all issues.

**WHEREFORE**, the plaintiff demands judgment as against the defendants as follows:

ON THE FIRST CLAIM FOR RELIEF- an award of the maximum statutory damages in an amount of not less than \$150,000 or for such other amount as may be proper pursuant to 17 U.S.C. § 504 and for an order enjoining MCGRAW HILL from infringing the plaintiff's copyrighted image, pursuant to 17 U.S.C. § 502 and for an award of costs and attorneys' fees pursuant to 17 U.S.C. § 505;

ON THE SECOND CLAIM FOR RELIEF- an award of the maximum statutory damages in an amount of not less than \$150,000 or for such other amount as may be proper pursuant to 17 U.S.C. § 504 and for an order enjoining MCGRAW HILL from

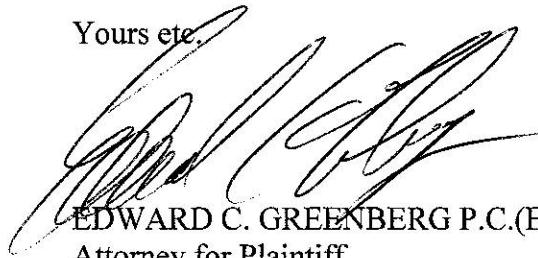
infringing the plaintiff's copyrighted image, pursuant to 17 U.S.C. § 502 and for an award of costs and attorneys' fees pursuant to 17 U.S.C. § 505;

ON THE THIRD CLAIM FOR RELIEF- an order permanently enjoining and prohibiting defendant, including but not limited to wholly owned subsidiaries, from all future sales, transfers, assignments, or licensing of the subject image.

Prejudgment interest on all sums due;

And such other and further relief as this Court may deem just and proper

Dated: New York, New York  
May 8, 2007

Yours etc.  
  
EDWARD C. GREENBERG P.C.(ECG 553)  
Attorney for Plaintiff  
100 Park Avenue, 33<sup>rd</sup> Floor  
New York, New York 10017  
Tel: (212) 697-8777